

**CALIFORNIA DEPARTMENT OF WATER RESOURCES FLOOD
CORRIDOR PROGRAM GUIDELINES
AUTHORIZED UNDER**

**THE DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006
(PROPOSITION 1E)**

AND

**THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL,
RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84)**

**STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
DIVISION OF FLOOD MANAGEMENT**

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Section 1 Introduction and Definitions

These Guidelines address funding allocations through the Flood Protection Corridor Program (FPCP) and the Floodway Corridor Program (FCP), together called the Flood Corridor Program (Program). The mission of the Program is to fund primarily nonstructural flood management solutions through both direct expenditures and grants to local public agencies and nonprofit organizations. Funding under this Program is intended to be used for acquisition, restoration, enhancement and protection of real property while preserving sustainable agriculture and conserving and enhancing wildlife habitat in and near flood corridors throughout the State. Proposition 84 and Proposition 1E are the funding sources for this Program. Individual projects may be funded from more than one funding source.

The Department, in its implementation of the Program originally established by voter approved Proposition 13, seeks to avoid future flood damage and correct existing problems by restoring natural fluvial and related biological processes in flood corridors by acquiring, through easement or fee title, rights to real property that is subject to periodic damaging flood flows. These projects and activities may be undertaken by the California Department of Water Resources (Department) directly or through grants to local public agencies or nonprofit organizations. The Program is statewide in scope, although a portion of the Proposition 1E funding is designated in the Governor's budget only for use within the Sacramento-San Joaquin Valley to reduce flood risk for areas protected by State Plan of Flood Control facilities. For a proposed project to be eligible for the portion of the Proposition 1E funding designated for use in areas protected by the State Plan of Flood Control, at least 90 percent of the expected benefits from the proposed project must occur within a Levee Flood Protection Zone.

Program funding sources encompass:

1. Proposition 84, The Safe Drinking Water, Water Quality & Supply, Flood Control, River & Coastal Bond Act of 2006 (Section 75032.5 of Chapter 3 of Division 43 of the Public Resources Code) funds may be used for protection, creation, and enhancement of flood protection corridors through any of the following actions:
 - a) Acquiring easements and other interests in real property from willing sellers to protect or enhance flood protection corridors and floodplains while preserving and enhancing the agricultural use of the real property;
 - b) Setting back existing flood control levees and, in conjunction with undertaking those setbacks, strengthening or modifying existing levees;
 - c) Acquiring interests in real property from willing sellers located in a floodplain that cannot reasonably be made safe from future flooding; and
 - d) Acquiring easements and other interests in real property from willing sellers to protect or enhance flood protection corridors while preserving and enhancing the wildlife habitat value of the real property.
2. Proposition 1E, the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Section 5096.825 of Chapter 1.699 of Division 5 of the Public Resources Code) provides additional funds for the protection, creation, and enhancement of flood

protection corridors and bypasses through the following actions, which are similar to the Proposition 84 actions:

- a) Acquiring easements and other interests in real property from willing sellers to protect or enhance flood protection corridors and floodplains while preserving and enhancing the agricultural use of the real property;
- b) Setting back existing flood control levees, and in conjunction with undertaking those setbacks, strengthening or modifying existing levees and weirs;
- c) Acquiring interests in, or providing incentives for maintaining agricultural uses of, real property that is located in a floodplain that cannot reasonably be made safe from future flooding; and
- d) Acquiring easements and other interests in real property to protect or enhance flood protection corridors while preserving and enhancing the wildlife habitat value of the real property.

Proposition 1E also provides for the following two additional actions:

- e) Constructing new levees necessary for the establishment of a flood protection corridor or bypass; and
- f) Relocating or flood proofing structures necessary for the establishment of a flood protection corridor.

Notice of Solicitation

The Department may solicit competitive proposals as long as uncommitted funds remain available to fund new projects. Notices of project solicitation will be provided via the internet to:

- a) Cities, counties, flood control districts, reclamation districts, and other local government entities that manage floodplains and flood control projects;
- b) Nonprofit organizations with interest in flood management issues; and
- c) All individuals and organizations that have requested notice of the opportunity to submit applications.

Definitions and Acronyms

In interpreting and applying these *Guidelines*, the following definitions and acronyms will apply:

“Agreement” or “Funding Agreement:” An agreement entered into by a successful Applicant and the State to provide funds for the Project.

“Applicant:” A California local agency or nonprofit organization, or an organization consisting of more than one eligible local agency or nonprofit association, that is the principal party applying for funding

“Board:” The Central Valley Flood Protection Board (formerly The Reclamation Board) or its successor.

“California Native American Tribe:” A federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission (NAHC) as defined in the State of California Tribal Consultation Guidelines, Supplement to General Plan Guidelines.

“Central Valley Flood Protection Plan:” The plan to be developed by the Department in accordance with Cal. Water Code § 9612.

“CEQA:” The California Environmental Quality Act, Public Resources Code Sections 21000 et seq.

“Community:” The specific geographic area that receives a direct reduction in flood risk from the proposed project.

“Contractor:” A contractor performing the Project work for the Funding Recipient to be paid for with funds from an agreement executed pursuant to these *Guidelines*.

“Corps” or “USACE:” The United States Army Corps of Engineers.

“Department” or “DWR:” The California Department of Water Resources.

“Director:” The Director of the Department of Water Resources.

“Disadvantaged Community:” A community with an annual median household income that is less than 80% of the statewide annual median household income as defined by the California Department of Finance, Population Research Unit, for the year in which the project proposal is submitted. If Department of Finance data are unavailable, data may be used from the most recently published U.S. Census.

“Eligible Project Costs” or “Eligible Costs:” The reasonable and necessary actual costs associated with Implementing a project selected pursuant to these *Guidelines* and further described herein.

“Facilities of the State Plan of Flood Control:” The levees, weirs, channels and other features of the Federal and State authorized flood control facilities located in the Sacramento and San Joaquin River drainage basin for which the Board or the Department has given the assurances of non-federal cooperation to the United States required for the project, and those facilities identified in Section 8361 of the Water Code. See Cal. Pub. Resources Code § 5096.805(e).

“FEMA:” The Federal Emergency Management Agency

“Flood Corridor:” Properties in and adjacent to a surface water conveyance channel whether natural or manmade that lie at least 50 percent within the floodplain with at least a one in one hundred chance of flooding in any given year, as determined by any of the flood recurrence interval mapping methods described in these *Guidelines*, and the area on the land side of a flood control levee that has a greater than one chance in one-

hundred of failing in any given year if the land side area would meet these criteria if the levee were breached.

“Funding Agreement” or “Agreement:” An agreement entered into by a successful Applicant or Project Sponsor and the State to provide funds for the Project pursuant to these *Guidelines*.

“Funding Recipient:” An eligible public agency, nonprofit organization or combination thereof, in the State of California, duly organized, existing and acting pursuant to the laws thereof, or a Project Sponsor, which is the signatory to a Funding Agreement executed pursuant to these *Guidelines*, and its successors and assigns.

“Levee Flood Protection Zone:” The area, as determined by the Board or the Department, which is protected by a Project Levee.

“Limit on State Funds:” The maximum amount of State funds that will be expended on the Project, as set forth in the Funding Agreement.

“Local Agency” or “Applicant:” A public agency in the State of California, duly organized, existing and acting pursuant to the laws thereof, including, but not limited to, any county, city, city and county, district, joint powers agency or council of governments. For purposes of these *Guidelines* a Local Agency must have authority to implement flood management projects.

“Local Agency Emergency Response Plan:” Refers to an Emergency Response Plan developed by or for Applicant to emergency response in a particular Reclamation District or area.

“Median Household Income:” The median household income data reported in the most recently published U. S. Census as updated by the California Department of Finance, Population Research Unit, for the year in which the project proposal is submitted.

“Milestone:” A point in time when a significant portion of a project is completed, as defined in the contract as a time for disbursement of grant funds.

“No Regrets Projects:” Projects that meet the No Regrets requirements outlined in these guidelines. Generally, these are Projects that the Department sees an imperative to build even if they are built out of sequence or before relevant long-term planning has concluded. These Projects are intended to avoid Stranded Investments.

“Nonprofit organization:” An organization that does not operate for profit and has no official governmental status, including but not limited to clubs, societies, neighborhood organizations, advisory councils, conservation organizations and privately run local community conservation corps.

“Project:” All planning, engineering, acquisition of real property interests, construction and related activities undertaken to implement a discrete action to be funded under these *Guidelines*.

“Project Description;” The document each Applicant must provide with their application that describes the proposed Project in detail.

“Project Levees:” The levees that are part of the facilities of the State Plan of Flood Control.

“Project Sponsor:” The State or an entity other than an applicant selected by the State to implement a project funded pursuant to the Direct Expenditure section of these *Guidelines*.

“Property interest:” Any right in real property, including easement, fee title, and any other kind of right acquired by legally binding means.

“Quarterly Progress Report:” A report on the status of the Project offered on a quarterly basis.

“Real Estate Capital Outlay Costs:” Reasonably justified costs for real property interests (fee/easement), private utility line relocation (*i.e.*, utility lines serving only one party), damage expenses (wells, fences and irrigation systems), goodwill and relocation assistance programs.

“Ring Levee:” A levee which by itself or by connecting to existing levees will encircle a particular asset or set of assets and provide them protection from flood risk.

“Scope of Work:” Detailed plans and information submitted by the applicant before a Project Funding Agreement is signed describing how the Project will be implemented.

“Setback Levee:” A new levee constructed completely separate (except for the “tie-ins”) from an existing levee which allows for removal of the existing levee and creation of additional floodplain connected to the stream. In the Sacramento – San Joaquin Delta (Cal. Water Code §12220), a Setback Levee may not necessarily result in removal of the existing levee if habitat restoration will be better achieved with the existing levee left in place.

“Severely Disadvantaged Community:” A community with an annual Median Household Income that is less than 60% of the statewide annual Median Household Income as defined by the California Department of Finance, Population Research Unit, for the year in which the project proposal is submitted. If Department of Finance data are unavailable, data may be used from the most recently published U.S. Census.

“State:” The State of California, acting by and through the Department of Water Resources.

“State General Obligation Bond Law:” The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

“State Plan of Flood Control:” The State and Federal flood management works, lands, programs, plans, conditions and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood

management projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the Board or the Department has provided the assurances of non-federal cooperation to the United States, which shall be updated by the Department and compiled into a single document entitled “The State Plan of Flood Control.” See Cal. Pub. Resources Code § 5096.805(j).

“Statement of Costs:” A statement of incurred Eligible Project Costs.

“Stranded Investments:” Funds committed to Projects that do not provide lasting benefits that are greater than the project cost.

Section 2 Application for Competitive Grant Funding

Applicants for competitive grant funding under the Program will file a complete grant application package with the Department. The Department will not revise the grant application package requirements during any period in which competitive project proposals are being solicited. The grant application package is attached as Appendix A.

Section 3 Competitive Grant Eligibility Criteria

All applicants for competitive grants must meet the following criterion to be considered eligible for funding:

Applicant is a California local public agency, a nonprofit organization, or an organization consisting of more than one local public agency or nonprofit organization. California Native American Tribes may apply for grant funding if they are registered as a non-profit organization, or they can partner with another applicant as described in the previous sentence.

Proposed projects must meet the following criteria:

1. A flood risk reduction component coupled with:
 - a) An agricultural land conservation component; or
 - b) A wildlife habitat conservation or enhancement component including where applicable restoration of natural fluvial and related biological processes; or
 - c) A combination of agricultural and wildlife habitat conservation and/or enhancement.
2. The proposed project activity locations and/or property acquisitions are at least 50 percent by area within or provide substantial flood risk reduction benefits to the 100-year floodplain as described by one of the following:

- a) A Federal Emergency Management Agency (FEMA) Special Flood Hazard Area (SFHA), which is determined by using the detailed methods identified in the current FEMA Guidelines and Specifications for Flood Hazard Mapping Partners; or
 - b) An area that would be inundated if the project were completed and an adjacent FEMA SFHA were inundated; or
 - c) A floodway designated by Central Valley Flood Protection Board under Water Code Section 8402(f) [Title 23, California Code of Regulations, Division 2, Section 497.5(a)]; or
 - d) An area below the elevation of the 100-year recurring flood, shown on a locally adopted base flood elevation map based on a hydrologic and hydraulic analysis prepared by a civil engineer registered pursuant to California law or a Professional Hydrologist – Surface Water certified by the American Institute of Hydrology. This is applicable to locations without levees, or where existing levees can be set back, breached, or removed. In the latter case, levee setbacks, removal, or breaching to allow inundation of the floodplain should be part of the project; or
 - e) An area demonstrated to the satisfaction of the Department of Water Resources to be hydrologically equivalent to one of those described in Subparagraphs a, b, c, or d, above.
3. The proposed project is primarily non-structural in nature as evidenced by the project budget allocating less than 20 percent of the Program grant funds to structural actions. Structural elements necessary or appropriate to ensure project objectives are generally fundable only up to 20 percent of Program grant funds. Recreational project elements also may not exceed 20 percent of the portion of the budget funded from Program grant funds.

In rare cases the limit on structural elements may be exceeded with strong justification:

- Where 20 to 30 percent of the Program funds are allocated to structural elements, FPCP staff concurrence is required; or
- Where non-structural elements cannot function without structural elements, 30-50 percent of the Program funds may be allocated. This will require approval from the Director of the Department.

The following activities are considered non-structural:

- projects which include setting back levees, constructing new levees necessary for the establishment of a bypass, or constructing ring levees to create a meaningful floodplain (reference: California Water Code Section 79037(b)(2) and Public Resources Code Section 5096.825);
- construction of earthen bottom detention basins either onsite or offsite that support native riparian and wetland vegetation;
- removal of one or more narrow points in a natural channel to improve conveyance if the sides and bottom of the channel are vegetated with native vegetation and not lined with impervious surface or rip-rap unless it is mixed with soil and supports vegetation;

- laying back the banks of incised streams to support native vegetation and improve conveyance, and relocating or flood proofing structures necessary to establish a flood protection corridor; and
 - One-time costs to improve flood-related emergency notification and response procedures.
4. Projects must include evidence of non-federal and non-state funding equal to at least 10 percent of the amount of the requested grant funds. If the project benefits a disadvantaged community the minimum local share is 5 percent. If the project benefits a severely disadvantaged community no local share is required. These communities must realize at least 51 percent of the project benefits in order to qualify for the reduced local share.
 5. No Regrets Projects

The applicant must demonstrate whether the proposed project is located within a geographic area that may be changed significantly due to actions that could reasonably be expected to result from another long-term planning effort (such as the Central Valley Flood Protection Plan, the San Joaquin River restoration, or a Corps feasibility study). If the proposed project is within a geographic area that could be changed significantly in the future as a result of an expected or concurrent long-term planning effort, the applicant must:

- i. Describe how the applicant is coordinating with the other planning effort(s);
- ii. Demonstrate that the proposed project is generally consistent with the other planning effort(s) that affect the same geographic area;
- iii. Demonstrate that the benefits from the proposed project are not likely to be reduced significantly or eliminated due to likely changes that can be expected to result from the related long-term planning effort(s); and
- iv. Demonstrate that implementation of the project is not likely to preclude or reduce anticipated benefits from the long-term planning effort(s).

Section 4 Application Package Completeness Criteria

The application package will be considered complete and will be evaluated for funding if it includes all of the following:

1. A fully completed application package.
2. A resolution from each applicant organizations' governing board authorizing submittal of a grant application, indicating their intent to accept the grant if awarded, and authorizing specific individuals to sign the funding agreement on behalf of each applicant organization.

3. Identification of the specific project location including geographic boundaries, site map, vicinity map.
4. A map that shows the 100-year floodplain boundary together with the boundaries of the project and how the boundaries of the proposed project coincide with a Levee Flood Protection Zone, if applicable. The method used for the floodplain determination, from the list provided in Section 3 above, must be included, as well as a statement of the percentage of expected benefits from the proposed project that occur within a Levee Flood Protection Zone.
5. Drawings or sketches of project features in adequate descriptive detail.
6. Fee and Easement Acreage Summary (template provided in application package).
7. A proposed scope of work identifying individual tasks, a schedule for execution of the project, and an explanation as to how the methods used are technically feasible to achieve project goals.
8. A description of how services of the California Conservation Corps, or local community conservation corps will be used in the project, if applicable.
9. A financial summary including:
 - a) The amount of the grant requested. The following is a partial list of eligible costs which may be included in the project's budget;
 - California Environmental Quality Act (CEQA) and other regulatory permit documentation
 - Phase I Environmental Site Assessment
 - Real estate fees
 - Hydrologic and hydraulic analysis
 - Plan to minimize impacts to adjacent landowners
 - Mitigation for environmental impacts resulting from implementation of the project that is the subject of the application for Program funds
 - Right-of-way acquisition
 - Land acquisition
 - Construction
 - Tools, supplies, and OSHA required worker accommodations needed for the project with a useful life approximately equal to the time needed to implement the project
 - Project management and administration costs.
 - b) The estimated budget for the project broken down by individual tasks which match the scope of work;
 - c) Identification of ongoing funding sources to pay for long term project maintenance costs;
 - d) The estimated amount of project costs to be funded by the applicant; and

- e) Identification of any other parties contributing to the project cost and the amounts and activities to be funded by them. This includes those cost contributions needed to meet the cost share requirement as stated in Section 3 item 4 above.
10. The applicant must demonstrate compliance with all applicable requirements of CEQA and other applicable regulatory laws, and submit copies of any environmental documents (including, but not limited to, any CEQA/NEPA drafts or final initial study checklists, any environmental impact report(s), environmental impact statement(s), environmental assessment(s), negative declaration(s), CEQA findings, Project approvals and permits and mitigation and monitoring plan(s), as appropriate, and all other state and federal environmental requirements (including but not limited to, requirements under the federal Clean Water Act, the federal Endangered Species Act and the California Fish and Game Code) and submit copies of the appropriate environmental permits, authorizations and agreements. If a CEQA document has been completed, the applicant shall provide a written statement certifying that no legal challenges have been made within the specified statute of limitations for the Notice of Determination or Notice of Exemption. Once CEQA documentation has been completed, the Department will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations, or other mitigation.
11. A statement of how the property improvements or acquired property interests funded by the grant will be conserved in perpetuity, either by a recorded conservation easement, deed restriction or similar limitation to fee title held and enforced by an identified third party, or other mechanism acceptable to the Department. Regardless of which method is used, it must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived in writing by the Department.
12. Evidence that affected landowners are willing participants in any proposed real property transactions including willing seller letters for the targeted properties.
13. A statement as to how the Plan to Minimize Impacts to Adjacent Landowners will be completed and an acknowledgement that this will be done early in the project's schedule. The elements of this plan include but are not limited to:
- a) An evaluation of the projects impact on floodwaters;
 - b) The structural integrity of affected levees;
 - c) Existing and proposed diversion facilities;
 - d) Current and historic agricultural practices on the project site and in the vicinity;
 - e) Timber extraction operations; and
 - f) An evaluation with regard to maintenance.
14. Applications must include one of the following:

- A hydrologic and hydraulic analysis prepared by a civil engineer registered pursuant to California law or a Professional Hydrologist-Surface Water certified by the American Institute of Hydrology; or
- An engineer's or hydrologist's opinion of flood benefits together with an applicant's statement of intent to prepare a full hydrologic and hydraulic analysis acceptable to the Department early in the project schedule, acknowledging that a provision will be included in the funding agreement to terminate the project if the full hydrologic and hydraulic analysis does not confirm that the project will produce the anticipated flood risk reduction benefits; or
- A statement deemed acceptable by the Department that a hydrologic and hydraulic analysis is not required because the project will neither affect the hydraulic conveyance capacity of surface water channels nor change transitory storage for storing peak flows.

15. A list of required permits and an implementation plan for their procurement.

16. The anticipated total dollar cost of flood damage repair/restoration if a flood were to occur at the project location. Give dollar amount of anticipated damages (repair cost) for both pre-project and post-project conditions in a format that allows the two to be easily compared. Use a flood recurrence interval (example 100-year, 50-year) appropriate to the location, nature, and size of the project, and use the same interval for both pre-project and post-project cost estimates. The flood recurrence interval used in estimating flood damage costs must be stated. These costs will include the costs that will be borne by taxpayers (taxpayer liability) plus any additional costs such as insurance reimbursement or property owner losses not likely to be covered by insurance or tax dollars. These amounts do not need to be calculated or presented individually, a cumulative total is sufficient for the application package. For vacant land, estimate the dollar value of anticipated damages if the area were to develop in accordance with land use patterns expected in the area if the area is not conserved as open space under pre-project and post-project conditions.

17. A statement of qualifications for each member of the project team (not to exceed two pages per person).

18. A preliminary maintenance plan for properties to be acquired or improvements to be funded from the grant and verification that the applicant or the applicant's agent or successor will maintain the project. Elements of a maintenance plan include:

- a) The name of the maintaining agency which does not need to be the same as the applicant but must be bound by the same maintenance obligations as the applicant that are required by the funding agreement;
- b) A description of periodic maintenance activities that will be performed, description and amount of ongoing costs, and the frequency and timing of performance;
- c) A statement about the source of funds for the project maintenance. The

applicant may use Program funds to establish an endowment in the amount of not more than 20 percent of the amount of money paid for the acquisition or for the improvements, including wildlife habitat restoration. If the applicant is calculating the endowment cap based on improvements made as part of the proposed project, such improvements used in calculating the endowment cap must be on property previously owned or acquired at substantially below fair market value. Otherwise, the endowment cap must be based on the acquisition costs. If an endowment fund is established for maintenance, the statement shall include information about the expected sufficiency of the endowment fund proceeds and the need for and sources of additional funding. Interest from the endowment shall be used only to maintain the lands including improvements that are acquired or improved using funds provided pursuant to these guidelines.

Some project applications will also require one or more of the following additional items to be considered complete and evaluated for funding:

1. If property interests are to be acquired, a summary of proposed property acquisition including:
 - a) Identification of each property on a map showing boundary, Assessor's Parcel Number (APN), and owner's name;
 - b) Names, street addresses, email addresses (if available), and telephone numbers of the property owners and lessees or tenants;
 - c) The type of property rights to be acquired (whether easement only or fee title and easement);
 - d) If an easement alone cannot be acquired, a justification of any proposed acquisition of fee interest in property must be provided. The justification shall include alternatives considered to fee title acquisition for each property, proposed final disposition of the property, and the effect on county property tax revenue; and
 - e) A list of names, addresses, telephone numbers, APNs and email addresses (if available) of owners of all property interests in parcels within three hundred feet of those for which acquisition of property rights is proposed ("adjacent landowners").
2. A FEMA Conditional Letter of Map Revision or a statement as to how and when it will be obtained or that none is required with an explanation as to why it is not required.
3. If the project consists solely of property acquisition or preliminary actions necessary for a future project but which provide no immediate flood benefit (either due to not all the necessary properties having been acquired or due to all needed planned improvements not yet completed and for which funding is not yet available), provide a statement describing assurances that the future project needed to achieve the flood benefits will be implemented and describing what future flood benefits will occur.

4. If any of the lands being acquired or restored as part of the project are required mitigation for another project, indicate the number of acres, and the source of funding (Program funds cannot be used for mitigation except mitigation required as a result of impacts from the project being funded with Program funds), and how these expenses will be tracked separately from the Program funds.

Section 5 Project Evaluation, Selection, and Public Hearing Process.

This Section describes the process for project evaluation and selection.

Project Proposals that do not meet the deadline established in the Proposal Solicitation Package will not be reviewed. The Department will review all timely submittals for completeness after proposals are submitted. Proposals that are not substantially complete will not be further reviewed. The Department may contact proponents of proposals that are substantially complete but are missing information necessary to evaluate the merits of the project.

1. Program staff will review the application package for completeness and for project eligibility.
2. A Project Evaluation Team comprised of Department staff and staff from other consulting governmental agencies will be convened.
3. The Project Evaluation Team will review each application and evaluate the subject project within 90 days of the close of the specified submittal period, or within 90 days of receipt of requested additional information, whichever is later.
4. The Department may request that the applicant provide clarification of existing information to better evaluate the merits of the project. Applicant must respond within 30 days of the Department's request. If the requested clarification cannot be provided in 30 days then the applicant may re-file its application at the Department's next solicitation of proposals.
5. Projects will be scored in accordance with the scoring criteria in the attached application package. Scoring will be based on project benefits in the following three evaluation categories: Flood Protection Benefits, Wildlife and/or Agricultural Land Conservation Benefits, and Quality of Proposal and Additional Benefits. The Project Evaluation Team will complete the evaluation of the project including recommending its place on a priority list. Projects receiving less than 50 percent of the available points in any of the three evaluation categories of the application will not be funded. Projects not funded may be resubmitted at the Department's next proposal solicitation with appropriate revisions if needed.

If the requested funds for all projects on the priority list are more than available funds, staff in cooperation with the Evaluation Team, may determine which

projects could be implemented with reduced funding or could have later phases deferred based on information provided in the application or during the project site visit.

6. If a portion of a wildlife habitat conservation and enhancement project is proposed to be used for wildlife habitat mitigation (that portion not eligible for Program funding), only the non-mitigation portion of the project will be used in scoring the project for wildlife habitat conservation and enhancement benefits.
7. After evaluations and recommended priorities by the Project Evaluation Team together with any possible project cost reductions or project deferments, program staff will submit the recommendations to the Management Review Team for review. The Management Review Team consists of managers from the Department's Division of Flood Management and from FloodSAFE. The Management Review Team may modify the recommendations of the Project Evaluation Team relative to which projects receive funding, their priority ranking, and the dollar amounts allocated to each project. The Management Review Team may recommend:
 - a) Allocating any or all of the available funds to grants for projects on the priority ranking list until the highest ranking priority projects are funded; or
 - b) Allocating the remaining available funds to grants for projects lower on the priority list provided all high priority projects are fully funded; or
 - c) Holding over the remaining available funds for allocation in the subsequent funding cycle; or
 - d) Allocating partial funding to one or more of the projects on the priority list currently being funded.Management Review Team written recommendations of the priority ranking and funding allocations are then sent to the Director for approval.
8. The Management Review Team will generally apply a maximum funding limit of \$5,000,000 per project in its recommendations to the Director, but may recommend funding above this limit. The recommendations of the Management Review Team will be posted on the Program's website for 15 days for comment.
9. Following the 15-day comment period, the Management Team Recommendations and any comments received together with Staff recommendations for disposition of the comments will be forwarded to the Director for final action. The Director may increase the amounts for individual projects if necessary to achieve the goals of the Program. The Director will determine the final content and priority order of the list and the amount of funding for each project. Funded and non-funded project applicants will be notified.
10. After the establishment of Director-approved priority list, the list will be posted on the Program's website and the Department will hold public hearings for each project to be funded. Public hearings will be held in the county or one of the counties where the project is located. If all or a portion of the project is in a municipality, the hearing will be held in the municipality or one of the

municipalities where the project is located.

11. The Department will coordinate with the grantee to give notice of the hearings in accordance with the following:
 - a) Notice will be given by mail at least 10 days before the hearing to:
 - Board of Supervisors of the affected county or counties;
 - adjacent landowners;
 - other affected local districts including water districts;
 - local municipalities;
 - individuals and organizations that have requested notice; and
 - other interested parties as determined by the Department.
 - b) Notice of the hearing will be given to the general public by publication in at least one newspaper of general circulation in the local community once a week for two successive weeks.
 - c) The notice will set the time and place of the hearing which will be not less than 10 days following the completion of publication. The notice will state that the purpose of the hearing is to inform and obtain comments from the public on the proposed acquisition of property rights for the project, if applicable, or on any other aspects of proposed project. The notice may include other specific subjects pertaining to the project.
 - d) Additionally, notice may be circulated by electronic mail, website posting or other methods that provide easy access and prompt availability.
12. The Department will provide a public comment period of two weeks in order to receive comments concerning the proposed project.
13. The Department will prepare a summary of comments made at the public hearing and during the public comment period, and within 30 working days after the hearing, will make the summary of comments available on its website.
14. After consideration of the results of the public hearing, if the project is still considered by the Department to be high on the priority list, Department staff will begin the process of developing a funding agreement with the project applicant (grantee). The grantee and the Department must enter into a funding agreement before any funds will be disbursed.

Section 6 Grant Administration

This Section describes the process entered into by the grantee and the Department once a project has been selected for funding. This includes the development and signing of a grant funding agreement.

1. Before the Department enters into a funding agreement (agreement) the grantee will submit a work plan (based on the information provided for project evaluation) including a detailed scope of work, budget, and project

schedule satisfactory to the Department. To assist the grantee in developing the work plan, the Department may visit the project site to assess its conditions and needs and may confer with the project grantee, project supporters, and other local officials, agencies, and organizations with an interest in the project. The Department may convey recommendations and information obtained from these efforts to the grantee. The agreement may be initiated once the Department approves the work plan.

2. The agreement will be signed by the grantee, and, if the grantee is a joint venture or similar organization, all the member organizations. If the grantee is a nonprofit organization that is not incorporated, it must designate a fiscal agent satisfactory to the Department to act on its behalf, and provide evidence that the fiscal agent agrees to so act.
3. If a Department approved agreement is not signed by the grantee within six months of the date the grant is awarded, the grant may be withdrawn.
4. Prior to any modification of the land or vegetation, a hydrologic and hydraulic study, acceptable to the Department, shall be completed for properties within and adjacent to the project. If a project will neither affect the hydraulic conveyance capacity of surface water conveyance channels nor change transitory storage capacity for storing peak flows, a hydrologic and hydraulic analysis may not be required.
5. Although grant funds will be disbursed as provided in the agreement to reimburse costs incurred by the grantee or to make payments directly into escrow, certain costs will not be reimbursed or paid until the following conditions are met:
 - a) For project activities that could affect the environment, the grantee complies with all applicable requirements of CEQA and other environmental laws; and
 - b) For project activities requiring permits, the necessary permits are obtained.
6. The Department may withhold up to 10 percent of each disbursement, as specified in the agreement, to ensure completion of the project. Such withholding will generally not apply to property purchase payments except when multiple cost-shared property purchases occurring at different times are necessary to ensure the success of the project and avoid stranded investment. In such cases, 10 percent of the Department share will be withheld from each purchase, except the final purchase, until the final purchase is completed.
7. The grantee will be required to keep informed of and take all measures necessary to ensure compliance with applicable California Labor Code requirements, including, but not limited to, Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer

labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5) and payment of prevailing wages for work done and funded pursuant to these Guidelines.

8. For projects that receive funding pursuant to the provisions of Proposition 84, the agreement will require the sponsor to submit verification of a Labor Compliance Program acceptable to the Department that meets the requirements of California Labor Code Section 1771.5. Written evidence of the Labor Compliance Program will need to be submitted to the Department before the project is funded.
9. The agreement will either define project completion milestones, at which time payment of grant funds will be made for completed work, or state that payment will be made monthly or quarterly in arrears upon receipt of invoices. For property rights acquisitions, payment can be made at the time of purchase directly into escrow or as reimbursement to the grantee following escrow closure if the grantee advances the funds to complete the purchase in accordance with the terms of the funding agreement.
10. The grantee will provide a progress report to the Department, as a prerequisite to payment of each invoice. Progress reports will include the following:
 - a) Records of expenditures;
 - b) Description of project activities since the previous report;
 - c) Status of the project relative to the progress schedule;
 - d) Key issues that must be resolved; and
 - e) Results of project monitoring.

The first progress report shall be made at the end of the first complete calendar quarter after the date of execution. Progress reports will be submitted quarterly thereafter. The Department will monitor progress and may suspend all payments indefinitely if in the opinion of the Department's Chief of the Division of Flood Management it appears the grantee is in breach of the agreement to such an extent that ultimate achievement of project objectives may be significantly compromised. If payments are suspended, the grantee will be given six months to cure the breach or the funding agreement will automatically terminate. Decisions to suspend payments may be appealed to the Director of the Department.

11. The Department may inspect the project at any reasonable time during planning and construction to ensure it is being carried out in accordance with the work plan, and after completion to ensure that it is being properly maintained.
12. The grantee will prepare a maintenance plan and will be required to report annually to the Department on maintenance activities for five years following

project completion.

13. Amendments to agreements require the approval of all parties and may require re-evaluation of the project's competitive score. Amendments may address:

- a) Change in schedule (e.g. time extension);
- b) Change in scope of work, project boundaries, or properties targeted for acquisition if outside the project boundaries. A change in targeted properties may be acceptable if:
 - the amount of transitory storage for a given level of flood event does not change so long as the new property is within 5 miles of the previously targeted property or the flood stage elevation reduction for the benefited properties does not change;
 - the proposed new site drains into the same primary watercourse as the original property;
 - the proposed new site meets the requirement for being 50% in the 100-year floodplain; and
 - the proposed new site must have comparable wildlife habitat quality or agricultural benefits, i.e. the habitats are similar in size, type, density, quality, and support as many or more target species. Agricultural land is considered similar if it has soils with similar productivity potential (as indicated by similar agricultural soils classification by the Natural Resource Conservation Service), similar water availability for irrigation, similar presence or absence of conflicting land uses on surrounding properties, and similar accessibility for farm equipment.
- c) Change in total budget or transfer of funds between tasks that exceeds 20 percent of the Department approved budget for either task (less than 20 percent does not require a formal amendment but does require the Department's program manager's written approval);
- d) Change to any of the agreement provisions; and
- e) Change in parties to the agreement.

Proposed amendments that may cause significant change or reduction of project benefits, as determined by Program staff, will have their competitive rank re-evaluated and re-scored by the original Project Evaluation Team or a team with equivalent expertise. If re-evaluation results in a lower score the initial project may be completed with the remaining funding if in the opinion of the Management Review Team the remaining benefits justify completing the project. If the Management Review Team determines the change or reduction of project benefits make the project no longer eligible for funding, the funding will be terminated and redirected to another project or re-budgeted for a future funding cycle.

14. The grantee will submit a written project completion report which will include:

- a) All items required in Section 6 item 10 above;
- b) Photographs of the before-project condition;

- c) Photographs of planning and restoration activities and techniques; and
- d) Photographs of the completed condition.

15. All grantees are subject to state and federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code Section 1090, and Public Contract Code Sections 10410 and 10411, for State conflict of interest requirements.
16. The grantee will defend and hold and save the State, its officers, agents, and employees, free and harmless from any and all claims or damages arising out of or in connection with the planning, design, construction, operation, maintenance, repair, replacement, or rehabilitation of the project facilities and properties, including claims based on inverse condemnation.

Section 7 Audits and Record Keeping

1. All grantee records and documents pertaining to the grant will be maintained by the grantee until three years after the final payment of grant funds is made.
2. All grantee records and documents pertinent to the grant will be available for inspection and audit by the Department or other State representative during normal business hours while the project is active and for three years after final payment of grant funds.

Section 8 Program Directed Activities

In addition to soliciting competitive grants, the Department may use a portion of Program funds for Direct Expenditures or Directed Activities that fulfill the intent of the funding source used. Direct expenditure projects are proposed by the Department either in response to a solicitation from a stakeholder, another government entity, or on its own initiative. The Department will apply these guidelines, as it deems applicable and appropriate, to such projects. Direct expenditure projects must address an interest of the State, may be proposed and approved at any time, but must be evaluated by the same criteria as competitive grants and receive at least 50 percent of the available points in each of the following three categories: Flood Protection Benefits, Wildlife and Agricultural Land Conservation Benefits, and Quality of Proposal and Additional Benefits. The Department will also use guidance from Propositions 1E and 84. The Department may transfer program funds to other State agencies to implement qualifying projects pursuant to an interagency agreement, or may contract with contractors, local government agencies, nonprofit organizations, and federal agencies in funding and implementing direct expenditure projects.

The approval process for direct expenditure projects is the same as for competitive grants.

Section 9 Guideline Amendments

These *Guidelines* may be amended at the sole discretion of the Department at any time. Amendments to the *Guidelines* will be publically posted and made available for comment. If an amendment substantively changes these *Guidelines*, such that an applicant can make a showing that it would have qualified and would have submitted a proposal under the amended *Guidelines*, the applicant *will* be given the opportunity to submit the proposal for review.